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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,799	07/29/2003	Garry R. Marty	8271-26/ 115-3653-U	9409
7590	08/01/2005			
Woodard, Emhardt, Moriarty, McNett & Henry LLP Bank One Center/Tower 111 Monument Circle, Suite 3700 Indianapolis, IN 46204-5137			EXAMINER RIVELL, JOHN A	
			ART UNIT 3753	PAPER NUMBER

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/629,799	MARTY, GARRY R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Rivell	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 7/29/03 (application).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-12, 14 and 17 is/are rejected.
- 7) ☒ Claim(s) 6-9, 13, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>29072003</u> | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3753

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 10-12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp (WO01/66986) in view of Black.

The document to Knapp (WO01/66986) discloses, generally in figure 1, a "flow diverter valve assembly comprising: a valve body (4) defining a plurality of flow passageways (11, 12, 13); a rotatable diverter cartridge (17) positioned within said valve body,... a cap (3) assembled into said valve body and being positioned between said valve body (4) and said rotatable diverter cartridge (17),... and means (at valve stem 14) for manually rotating said rotatable diverter cartridge (17) relative to said cap (3) to change one detent engagement to another detent engagement (as represented by the readily apparent spring biased ball detent mechanism located in the periphery of the "cartridge 17 which cooperates with corresponding detent recesses in the interior periphery of the "cap" 3), wherein each detent engagement corresponds to a different fluid flow selection" as recited in claims 1 and 17.

Thus the document to Knapp (WO01/66986) discloses all the claimed features with the exception of having "said rotatable diverter cartridge (at 17) defining a plurality of detent recesses (and) said cap (at 3) including at least one deflectable detent finger constructed and arranged to sequentially engage each of said plurality of detent recesses". Essentially, the respective claimed mechanisms, in general, are physically in the opposite locations relative to the locations disclosed in Knapp (WO01/66986).

The patent to Black discloses that it is known in the art to employ a fixed detent "finger" at 20 cooperating with moving detent "recesses" 22 for the purpose of providing

the tactile feel of the detent mechanism to indicate to the operator that the valve is in a certain position.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Knapp (WO01/66986) a fixed detent "finger" cooperating with a moving detent "recess" by physically for the purpose of providing the tactile feel of the detent mechanism to indicate to the operator that the valve is in a certain position as recognized by Black.

Regarding claim 2, in Knapp (WO01/66986), the "rotatable diverter cartridge (17) defines a flow inlet port (10) and three outflow ports (11, 12, 13)" as recited.

Regarding claims 3 and 10, there are believed to be as many detent recesses cooperating with the spring loaded detent mechanism as there are positions of the diverter cartridge. As shown there are at least "six" positions as in figs. 5-11.

Regarding claims 4, 5, 11 and 12, the inclusion of "a pair of detent fingers" is considered to be nothing more than an obvious duplication of the detent mechanism in Knapp (WO01/66986) for a multiplied effect.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp (WO01/66986) in view of Black as applied to claims 1-5, 10-12 and 17 above, further in view of Breda (U.S. Pat. No. 6,196,266 cited by applicant).

The document to Knapp (WO01/66986), as modified by Black, discloses all the claimed features with the exception of having "an annular O-ring positioned between said cap (3) and said valve body (4)".

The patent to Breda ('266) discloses that it is known in the art to employ an "annular O-ring" at seal 31 between the "cap" 32 and the valve body 11 for the purpose of sealing the interface therebetween against fluid leakage.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Knapp (WO01/66986), as modified by Black, an annular O-ring between the valve body 4 and the cap 3 for the purpose of sealing the interface therebetween against fluid leakage as recognized by Breda ('266).

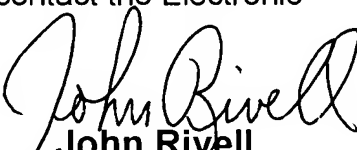
Claims 6-9, 13, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**John Rivell**  
**Primary Examiner**  
**Art Unit 3753**

j.r.